

Planning & Zoning Commission Meeting
Minutes of June 2, 2010
1st Floor North Conference Room - City Hall

Present: Chair Cindy Weeks; Vice-Chair Darryl Hart (arrived at 5:11 p.m.); Nathaniel Cannady, Jerome Jones and Holly Shriner

Absent: Mark C. Brooks and Mark Sexton

Pre-Meeting - 4:30 p.m.

The Commission and staff (1) briefly discussed the background on the two agenda items; (2) discussed potential timelines for review of the Unified Development Ordinance changes related to the implementation of the Downtown Master Plan; and (3) the upcoming proposal for including a Table of Uses in the Unified Development Ordinance.

Regular Meeting - 5:00 p.m.

Chair Weeks called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

Administrative

- ? Mr. Jones moved to approve the minutes of the May 5, 2010, meeting. This motion was seconded by Ms. Shriner and carried unanimously by a 4-0 vote.

Agenda Items

- (1) **Review of the conditional zoning request for the project identified as Buncombe County Courthouse Life Safety Addition located at 60 Court Plaza. The request seeks the rezoning from Central Business District to Central Business District/Conditional Zoning for the construction of a 33,542 square foot addition to the existing courthouse building and associated roadway reconfiguration with a request for a landscape modification. The owner is Buncombe County and the contact is Keith Hargrove. The properties are identified on the Buncombe County tax maps and records as PINs 9649.50-1567 and 4857.**

Urban Planner Jessica Bernstein oriented the Commission to the site and said that this is a request for review of a proposed Conditional Zoning in the Central Business District (CBD) to accommodate the construction of a life safety addition to the Buncombe County Courthouse.

The project area consists of 2 parcels with an approximate area of 1.06 acres. The site is located at 60 Court Plaza, at the southwest and southeast corners of College and Davidson Streets in the CBD and is the current location of the Buncombe County Courthouse and a small surface parking lot owned and operated by the County.

The proposal includes the construction of a 9-story tower addition onto the back (east) side of the Courthouse building and includes a consolidated entry / exit lobby, provides upgraded access to the upper stories of the Courthouse via four elevators and two separate stairways and includes two accessible bathrooms on each level through the 8th floor. The addition comprises 37,712 square feet overall with a 5,646 square foot footprint. The addition will be 139'2" in height (the Courthouse is 197' in height).

Currently all entry into the County Courthouse is through a small door and narrow hallway off of College Street. With this proposal, the main point of entry remains along College Street but

will be enlarged to provide an entry vestibule (offering refuge during inclement weather), upgraded areas for security guards and a separate security office, entry points with two metal detectors and an handicapped accessible gate and an adjacent exit area. This consolidated ground level entry/exit lobby enhances security options for the Courthouse in a way to make for more efficient check-in and allows guards to monitor all coming and going from the building.

The existing plaza along College Street will be significantly enhanced and enlarged with benches, increased landscaping, pedestrian pathways, brick pavers and monumental steps leading up to the entry lobby. These improvements will aid in providing clear visual direction to pedestrians as to where to access the Courthouse as well as offering public gathering spaces. Sidewalks directly along College Street will remain less than the required 10' in width to preserve existing mature street trees but other larger, accessible pedestrian pathways are integrated throughout the plaza.

The applicant is requesting a modification to required landscaping requirements for street trees along Davidson due to existing utility and right-of-way constraints.

This project proposes the permanent closure of a portion of Davidson Street to private vehicles. Plans show the street as privately maintained and accessible only to police and associated personal via a security gate at the southern intersection with Marjorie Street and a smaller, diverted "exit-only" at College Street. While the life safety addition expands into the existing Davidson roadway, the resulting private street will remain wide enough for emergency fire access to the jail building. This action requires a separate review process, approved by City Council. This proposed closure has given City staff an opportunity to begin assessing the potential benefit of seeking out another connection in the vicinity, such as extending the Valley Street right-of-way for a future connection back into South Charlotte Street.

The applicant has provided a tentative construction plan and timeline, indicating 18-months to complete construction of the Life Safety Addition. Intent to submit a Phase II has been expressed, which would include a new structure fronting along College Street, spanning across the Davidson opening. The Phase II project would likely significantly alter the appearance of the entry and plaza and will require review by the Downtown Commission, Technical Review Committee (TRC), Planning & Zoning Commission and City Council.

The design for this project was reviewed and unanimously approved by the Downtown Commission on March 12, 2010. Additionally, The Buncombe County Courthouse (1927-1928) is listed on the National Register of Historic Places and the proposal follows the guidelines set forth by the Secretary of the Interior's Standards for new exterior additions to historic buildings (Chapter 14). The Commission granted a modification to increase setback from College Street to align with the façade of the existing Courthouse building and to provide more area for the enhanced public plaza. The Commission review also included demolition of the Courthouse Annex building, located at 189 College Street, with the applicant proposing to use that lot for staging and lay-down of materials during the construction process. The Commission did not support the demolition of this structure, asking for an alternative site to be used and/or for the building to remain standing until the future Phase was imminent. *The demolition of 189 College Street is not shown in the current plans submitted by the applicant.*

The TRC evaluated this request on May 3, 2010, and it was approved with conditions as noted in their staff report. No opposition has been received as of the writing of this report.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements and can be regarded to actually improve the public health and safety by providing improved access to and from the courthouse building. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The proposed development of the land is compatible with the topographic features on the site. There is a slight grade change (13') from north to south which is mitigated by the installation of a retaining wall along the Davidson ground-level frontage (similar to the existing conditions) and accommodated at College Street through the plaza design and monumental steps leading pedestrians to the entry point.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The development is not expected to injure the value of adjoining or abutting properties. The use enhances and improves the existing government and public safety functions along this block (all adjoining and abutting parcels are owned by the County).

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The proposed development is compatible with the Buncombe County Courthouse in design and character. The proposal follows the guidelines set forth by the Secretary of the Interior's Standards for new exterior additions to historic buildings (Chapter 14) and the addition is not visible from Pack Square Park. The addition is appropriate to the area, which has evolved as a governmental "campus" location for City and County uses.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The *Asheville City Development Plan 2025* makes specific references to the importance of historic preservation and its role in smart growth. The proposed life safety addition makes it feasible for the County to continue operating in the National Register Courthouse building, make use of inaccessible upper stories and keep these governmental functions in their historic, downtown location.

Both the *Downtown Asheville Center City Plan* and the *Downtown Master Plan* stress that having a mix of uses – which includes civic (governmental) – is an asset and vital for the strength of downtown. Specifically, the City and County services are essential to bringing people downtown, providing employment and reinforcing downtown's status as the center of the region. The *Center City Plan* states that it is important to consolidate governmental uses to the existing "campus" location.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

This proposal is located near major road facilities and along multiple City bus routes in the walkable Central Business District. In addition, basic infrastructure appears adequate

and preliminary review by other service providers has not revealed any problems for future service to the development.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The proposed project has been reviewed by the City Traffic Engineer and it should not cause undue traffic congestion along the existing street infrastructure. The anticipated traffic is expected to be less than one hundred (100) vehicles per hour during the morning and afternoon peak hours during a typical weekday, no traffic impact statement is warranted.

The proposed permanent closure of Davidson Street between College Street and Marjorie Avenue poses no significant impact for motor vehicle access. Both College Street and Marjorie Street will be accessible from Valley Street. The proposed gate for Davidson Street north of Marjorie Street is set back such that typical queuing for its operation will not interfere with Marjorie Street traffic flow.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? Provides needed safety upgrades to the Buncombe County Courthouse building, prolonging the usability of this iconic historic structure.
- ? The permanent road closure improves security around the jail and courthouse areas.

Cons:

- ? Although more of a consideration than a concern, the future phase as shown on the master plan will dramatically alter the appearance of the current proposal (both structure and plaza) as seen from College Street.
- ? A permanent road closure slightly diminishes public vehicular access to this area of downtown, although this could easily be offset by modifications to other area road connections that could be considered in the future.

Staff recommends approval of the conditional zoning request as submitted by the applicant, including the modification eliminating street trees along the Davidson frontage.

When Mr. Jones asked if the upper floors (old jail) of the Courthouse will be renovated as part of this project, Mr. Keith Hargrove, representing the applicant, said that their intent is that it will happen eventually.

In response to Mr. Jones, Assistant County Manager Jon Creighton said that the existing front of the Courthouse will remain an exit only, due to Americans with Disability Act requirements. With the new tower, there will be a new visible entrance on College Street.

Chair Weeks opened the public hearing at 5:12 p.m. and when no one spoke, she then closed it at 5:12 p.m.

Based on the above findings and the analysis provided in the report, Mr. Jones moved to recommend the Conditional Zoning in the Central Business District (CBD) to accommodate the construction of a life safety addition to the Buncombe County Courthouse, including the modification eliminating street trees along the Davidson frontage, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review

Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Mr. Cannady and carried unanimously by a 5-0 vote.

- (2) Review of the conditional zoning request for the project identified as 902 Sand Hill Road. The request seeks the rezoning from RM-6 Residential Multi-Family Low Density District to Office District/Conditional Zoning to convert the existing residential structure to office use. The owner is Berley Properties LLC and the contact is Gerald Green. The property is identified on the Buncombe County tax maps and records as PIN 9627.05-3553.**

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting a Conditional Zoning for one parcel located at the corner of Sand Hill and West Oakview Roads from RM-6 (Residential Multi-Family Low Density District) to O (Office District) in accordance with Section 7-7-8 of the UDO.

The site consists of a single parcel located at 902 Sand Hill Road with an area of approximately 1.02 acres (0.98 acres according to Buncombe County Tax records). The lot, located at the southwest corner of Sand Hill and West Oakview Roads, is currently zoned RM-6 and is similarly zoned to the west and adjacent to RS-4 to the south. Areas are zoned RS-4 across West Oakview to the east and CBI across Sand Hill Road to the north. There are single-family homes to the south, the Oak Forest Presbyterian Church across West Oakview to the east and a convenience store across Sand Hill Road to the north.

The lot contains a two-story brick and frame residential structure (2,080 square feet) and a detached frame garage (576 square feet). The applicant is proposing to maintain the existing structures and to convert the interior use from residential to office. Vehicular access to the structure will remain in the current location from West Oakview Road. A small gravel parking area is proposed and provides six spaces (including one accessible and one bike space).

Landscaping and open space are required on this site due to the rezoning and includes a Type A (20') property line buffer along the southwestern and southeastern boundaries adjacent to RM-6 and RS-4, street trees and parking lot landscaping. There is significant mature vegetation on the site that will be used as credits for much of the required landscaping around the perimeters. Fifteen percent of the site is required to be designated as open space and the applicant has provided more than 70%.

Both Sand Hill Road and West Oakview Road are identified as needed linkages for sidewalks and none currently exist, however the applicant has requested a fee-in-lieu under Section 7-11-8(e)(4) of the UDO, based on the cost of the sidewalk installation exceeding 15% of the total project cost. This request is granted by the City Traffic Engineer.

This project was recommended for approval with conditions by the Technical Review Committee (TRC) on May 3, 2010. No members of the public were present to speak on this proposal, however; staff has received notice of opposition from a nearby property owner. His concerns were regarding whether this action would make it easier for further non-residential uses to expand into the single-family residential neighborhoods and discomfort with the office incursion into the residential area.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use

permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

Aside from the creation of a small, six-space gravel parking area off of the existing driveway and turnaround, there is no proposed development of the land. A 20' Type A vegetated buffer will be installed along the southern property line, adjacent to the RS-zoned single-family house and is expected to mitigate any impact from the parking area. The existing building will remain and be used for the office use, resulting in very little visual change to the site and neighborhood.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The proposal is not expected to injure the value of adjoining or abutting properties. Since there is virtually no physical change to the site, there should be no impact to abutting properties.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The proposed office use is compatible with the other non-residential uses at this four-way intersection (church, convenience store and vacant parcel) and should be similarly compatible with the adjacent residential neighborhood. The heavy traffic and lights from the convenience store to the north result in a situation where non-residential use may be more suitable than residential.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

The *Asheville City Development Plan 2025* provides strategies and goals that support this conditional zoning request, especially considering the proposal to retain the existing residential structure and convert it to office use, leaving the site largely unchanged. Although the *Plan* does recommend protecting and preserving residential neighborhoods and uses, the City recognizes that on high-traffic, non-residential intersections such as this one, allowing for a non-residential use may be appropriate.

The *Plan* directly supports adaptive reuse of structures, stating that "it is important to find new, compatible uses for buildings if we are to preserve the architectural character of the community. In addition, if these buildings stand vacant and dilapidated, they promote neighborhood decline." While the use will be office, the house will remain and the site will not appear vastly different.

Allowing for the proposed office use supports small business development, which directly aligns with City Council's goal of *Job Growth & Community Development*. Additionally,

adaptive reuse of existing buildings is the most sustainable construction, supporting Council's *Green & Sustainable* goal.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

The project site is located at an intersection with a major road (Sand Hill Road) and less than a mile from US 19/23 and I-40. In addition, basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for continued service to the site.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The proposed project has been reviewed by the City Traffic Engineer and it should not cause undue traffic congestion along the existing street infrastructure. The anticipated traffic is expected to be less than one hundred (100) vehicles per hour during the morning and afternoon peak hours during a typical weekday.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? The proposal retains the existing residential structure with minimal physical changes to the site, maintaining the residential character of the area while allowing for a new use.
- ? Significant mature landscaping will be retained on-site and additional landscaping will provide a buffer for the residential use to the south.

Con:

- ? The rezoning to Office use may be perceived as allowing non-residential encroachment into the residential neighborhood.

Based on the above findings, staff recommends approval of the conditional zoning as requested by the applicant.

Mr. Gerald Green, representing the applicant, explained how they will maintain the character of the house and site. He said they will convert the house into an accounting office, where most of the 6 employees will work remotely. He said that the only visible change will be in the parking area which will have a sidewalk up to the house with a ramp. He explained why they are requesting a fee in lieu of for the sidewalk, primarily due to the trees that would have to be removed to build the sidewalk.

In response to Ms. Shriner, Mr. Green explained the buffer landscaping they will plant, noting that they propose to use as much existing landscaping as possible as there are many mature trees on the site.

Chair Weeks opened the public hearing at 5:25 p.m. and when no one spoke, she then closed it at 5:25 p.m.

Based on the above findings and the analysis provided in the report, Mr. Cannady moved to recommend approval of the project identified as 902 Sand Hill Road from RM-6 Residential Multi-Family Low Density District to Office District/Conditional Zoning to convert the existing residential structure to office use, subject to the following conditions (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of

detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; (6) All activities associated with the office use, including deliveries and refuse collection, shall be conducted between the hours of 7:00 a.m. and 10:00 p.m.; and (7) Signage should be limited to a residential scale, may not be internally illuminated and should not exceed six feet in height and 15-square feet per sign face. This motion was seconded by Mr. Hart and carried unanimously by a 5-0 vote.

Other Business

Urban Planner Alan Glines presented the Commission information on the proposed wording amendments revising Section 7-8-18 of the Unified Development Ordinance (UDO) Central Business District according to the recommendations from the Downtown Master Plan. He explained that the Urban Design Subcommittee (one of 5 committees assigned to each area to begin implementation of the Downtown Master Plan) has held many meetings and they have put Downtown Master Plan (DTMP) wording amendments into a matrix consisting of UDO reference, related action step from DTMP, current UDO requirement, proposed amendment, staff comment, and Design Action Committee comments. He said that he would review a few of the detailed items at this meeting and then work with the Commission on reviewing some of the other detailed items at another meeting or two.

He explained the proposed height zone map that the Downtown Commission has recommended for approval. This map includes the height zone areas for the tallest height, the intermediate height zone, building height buffer zone and the Context Transition Edge.

He then used a map to explain the Context Transition Edge surrounding some areas of the Central Business District. The context edge is adjacent to residentially zoned property and reduces potential impacts on height on residential areas.

Throughout Mr. Glines' presentation, he responded to various questions/comments raised by the Commissioners, some being, but are not limited to: what is the boundaries of the Central Business District; what is the tallest building in the Central Business District; how tall was the Ellington and what happens if the Ellington is not built; what is the logic of having smaller buildings in the middle of downtown; is this a typical approach used by other cities, and if so, which ones; and, what is the process going forward regarding voting on the different items.

Planning & Development Director Judy Daniel recommended the Commissioners hold two sequential meetings two weeks apart to review the remaining detailed Downtown Master Plan items. After the Commissioner's review, City Council will schedule a special worksession or two to review the items prior to scheduling a public hearing.

Chair Weeks said that Ms. Rita Baidas will call the Commissioners to poll them on the next meeting date.

Adjournment

At 6:12 p.m., Mr. Jones moved to adjourn the meeting. This motion was seconded by Mr. Cannady and carried unanimously by 5-0 vote.